

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
September 22, 2009**

Place: Auditorium
Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze, Spain, Hutchison, Grimes, Riccardo

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
FILMED: Channel 79

Chairman Conze read the following agenda item:

GENERAL MEETING

Mandatory Referral #6-2009, Board of Selectmen, 126 Ledge Road, SB Zone.

Report request regarding potential amendment to the lease governing the Ledge Road telecommunications tower to allow for the placement of a new service provider.

Director of Planning Jeremy Ginsberg discussed the draft report which had been prepared. Commission members noted that the draft had previously been distributed and therefore there was no need to read it aloud. The following motion was made: To issue the following Report regarding the proposed amendment of the lease. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

**DARIEN PLANNING AND ZONING COMMISSION
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT
BOARD OF SELECTMEN, 126 LEDGE ROAD
SEPTEMBER 22, 2009**

Mandatory Referral #6-2009, Board of Selectmen, 126 Ledge Road, SB Zone.

Report request regarding potential amendment to the lease governing the Ledge Road telecommunications tower to allow for the placement of a new service provider.

This is a proposed amendment of the existing lease of Town land at the transfer station property at 126 Ledge Road. This lease amendment would allow for the placement of a new service provider. The antennae for this new service provider, Clearwire, would be located at the same height on the tower as Sprint. This new provider would also have its ground equipment in the same vicinity as Sprint. The inclusion of the new service provider on the existing tower is consistent with the Town policies of users sharing tower space and thus minimizing the need to construct new towers. There is no expansion of the tower proposed as part of this referral request. As part of this request, the Commission reviewed the September 9, 2009 letter from Karl Kilduff, Administrative Officer.

The Commission believes that this proposal is consistent with the 2006 Town Plan of Conservation & Development, as amended.

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Chairman Conze then read the following agenda item:

Discussion, deliberation, and possible decision on:

Special Permit Application #11-P, Ox Ridge Hunt Club, 516 Middlesex Road. Proposing to install a fence along a portion of Middlesex Road and near the driveway entrance and perform related site activities. *PUBLIC HEARING CLOSED: 9/8/2009. DECISION DEADLINE: 11/12/2009.*

Commission members discussed the draft Resolution to grant the Special Permit application with stipulations and conditions. Mr. Conze noted that the Ox Ridge Hunt Club had been before the Planning & Zoning Commission on numerous occasions and for them to put up a fence of this nature without discussing it with staff or requesting the necessary permit is unacceptable. He said that they need to work more closely with the Planning & Zoning Commission and its staff to make sure that all of their future actions conform to the Regulations. Commission members discussed the draft Resolution. The following motion was made: To adopt the following Resolution to grant the application with conditions and stipulations. The motion was made by Mr. Spain, seconded by Mrs. Grimes and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 22, 2009**

Application Number: Special Permit Application #11-P

Assessor's Map #6 Lot #149

Name and Address of Applicant and Applicant's Representative:	Amy Zabetakis, Esq. Rucci Burnham Carta & Carello, LLP 30 Old King's Highway South Darien, CT 06820
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Name and Address of Property Owner:	Ox Ridge Hunt Club, Inc. 512-516 Middlesex Road Darien, CT 06820
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Activity Being Applied For: Proposing to install a fence along a portion of Middlesex Road and near the driveway entrance and perform related site activities.

Property Location: The subject property is located on the northeast corner of the intersection formed by Saddle Ridge Road and Middlesex Road.

Zone: R-2

Date of Public Hearing: September 8, 2009

Time and Place: 8:00 P.M. Auditorium Town Hall

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Publication of Hearing Notices

Dates: August 27 & September 3, 2009

Newspaper: Darien News-Review

Date of Action: September 22, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: October 1, 2009

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The Ox Ridge Hunt Club proposes to install a fence along a portion of Middlesex Road and near the driveway entrance and perform related site activities. At the public hearing, the applicant's representative noted the need for privacy and security in this area. She specifically said that the goal is to shield the side of the property and minimize trespassing. She noted the prior wood stockade fence which had been located in this area that had been subject to vandalism. The Commission notes that fence installation had already commenced when this application was submitted. This fence was six feet high, chain link, with dark green plastic "hedge-like" inserts in the chain link slats.
2. It was explained that a four foot high fence is usually the maximum allowed along a street or in a front yard. However, Section 362 of the Darien Zoning Regulations allows up to an eight foot high fence adjacent to Special Permit uses (of which the Ox Ridge Hunt Club is one). The submitted plan does not show any new fence along Saddle Ridge Road.
3. There are no plans to increase the membership or change the existing uses or activities on-site as part of this application. There will be no increase in the programming, the number of horses, activities, use of space, or membership at the Club.
4. At the public hearing, four of the neighbors spoke regarding the proposal. In addition, some Commission members also expressed concern about the appropriateness of the plastic, artificial hedge inserts within the chain link fence located in such a highly visible location. In response, the applicant agreed to work with the Planning & Zoning Director on plantings of shrubs and/or trees in front of (on the Middlesex Road side of) the fence, and the planting ivy along the fence.

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This will allow the plastic “hedge-like” inserts now placed in the chain link fence to be removed after a few years. The existing void under part of the fence will be filled in with rock. Security cameras may also be installed, according to the applicant’s representative. The Commission believes that the plantings in front of the fence and the installation of shrubs and/or trees and ivy will make the fence better fit in with the neighborhood.

5. Per Section 1005b of the Darien Zoning Regulations, the Commission finds that the location, nature, size, and height the proposed fence, and the nature and extent of landscaping and screening, as required to be amended herein, will be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
6. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
8. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #11-P is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the fence shall be in accordance with the following plan submitted to and reviewed by the Commission, as required to be modified herein:
 - Property Survey prepared for Ox Ridge Hunt Club, by Charles C. Farnsworth, LLS, scale 1”=60’, dated July 20, 2009.
- B. The proposed fence is chain link, six feet high, with dark green plastic “hedge-like” inserts in the chain link slats. The applicant shall submit a revised plan for review and action by the Planning & Zoning Director showing at least fifteen plantings in front of (on the Middlesex Road side of) the fence, each at least five feet high (or 30 plants at least 3 feet high), and the planting of ivy along the fence. That ivy shall be planted alongside the front of (on the Middlesex Road side of) the fence so that it grows up and along the fence to help screen the fence. As the ivy and the other plantings grow, the plastic “hedge-like” inserts shall be removed. This removal shall occur between October 30, 2011 and October 30, 2013. The revised planting plan shall be submitted to the Planning & Zoning Director for his review and action prior to the completion of the fence. The planting shall be completed prior to October 30, 2009.
- C. At the public hearing, neighbors noted the existing void in a portion of the bottom of the fence. It was represented that this void would be filled with rocks. The Commission requires that this occur prior to October 30, 2009.

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- D. With this new screening fence, the limitations of use, the front yard and buffer area requirements and other restrictions on this Special Permit use are still in effect. There is no plan to increase the membership or change the existing uses or activities on-site as part of this application. There will be no increase in the programming, the number of horses, activities, use of space, or membership at the Club.
- E. The plans do not show any new fence along Saddle Ridge Road. There is no new proposed fence for that area, and none are hereby approved. Any desire for a new fence along Saddle Ridge Road other than to replace the existing split rail fence in its exact size, style, and location, will require a Special Permit application.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (September 21, 2010). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as required to be amended herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records to finalize this approval.

Chairman Conze then read the following agenda item:

Amendment of Business Site Plan #256/Special Permit, Athos Real Estate/Chipotle, 71 Boston Post Road. Request to modify Conditions I and J of the Commission's September 1, 2009 Adopted Resolution.

Commission members discussed the 9/22/09 letter from Attorney Amy Zabetakis requesting modification of two stipulations. Attorney Zabetakis explained that the prospective tenant, Chipotle, is very concerned about the parking problem that may occur on the street, but is not willing to have a condition that would require modifications within the restaurant if the parking problem occurs and is not addressed or corrected. She said that the parking problem on the street is really a police enforcement issue. Mr. Spain said that the local authorities would respond in a reasonable way to any illegal or dangerous parking situation, but there must be some impetus on the business to address the problem if the parking problem is caused by the business operation. Mr. Ginsberg noted that if there is insufficient on site parking at 71 Boston Post Road, then people will be told to park at 93 Boston Post Road which is owned by the same property owner. Mr. Spain said that he understood that such a joint parking arrangement was possible and that #93 was immediately adjacent to #71 but he said in this situation, it would not be acceptable to have people parking

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across the street and have to cross the busy Boston Post Road. Mrs. Grimes suggested that it might be possible to have the applicant submit and prepare a detailed traffic and parking study 6 months after the restaurant has opened for business. If there are problems, the traffic engineer could recommend changes to address those problems and if there are no problems, then the Commission would consider changing the stipulation.

Attorney Zabetakis explained that the second request concerns the exhaust system that is specified by the Planning & Zoning Commission Resolution. Mr. Ginsberg said that it is possible that a different system will be sufficient. Mr. Spain said that it is preferable that the Health Department be satisfied that there is no odor problem and that they monitor the situation and require changes if complaints or problems are not corrected. He said that the Commission does not want to require something that is not needed, but whatever is installed must be effective. He said that if the system that is installed is not effective enough and if a problem is not corrected, then the Planning & Zoning Director, in consultation with the Health Department, could require the restaurant to retrofit the exhaust system to include additional filters. Attorney Zabetakis said that the required water wash system is physically too big and too much for this building. She said that the tenant needs surety in the standards that must be satisfied in both odor control and parking. She said she understood the Commission's position that they need surety to be certain that there is no parking and no odor problem and that there would be continued compliance, but she said that the business operators cannot abide by an amorphous criteria.

Attorney Zabetakis said that the passive air filtering system that they propose keeps grease in the hood filters where it can easily be removed. Mr. Conze said that the Commission will need an affirmative statement that the restaurant will not create odors that are noticeable in any residential property nearby. He said that if there are complaints from the neighbors to the Town, who would investigate, the Health Department or the Zoning Enforcement Officer. He then asked what would happen if the system that has been installed is not effective enough, they would need to replace it or upgrade their odor control system. He suggested that the applicant provide some documentation to verify that the odor control system that they propose will be effective. Attorney Zabetakis said that it is a practical impossibility to fit the water-wash system into this space. Mr. Spain said that the Commission cannot allow a persistent reoccurring noticeable odor problem to be created. Attorney Zabetakis said that the tenant would correct any problem that is detected on an objective basis. She also noted that it is important to resolve this matter quickly because of the need to sign the leases and start the interior tenant fit-up.

Commission members chose not act on the request at this time. Mr. Conze said that if additional information is submitted, the Commission will possibly make a decision on this at its next available meeting which is October 6th. He said that any approval would need to incorporate the comments and concerns that have been expressed.

Chairman Conze then read the following general meeting agenda item:

Approval of Minutes

September 8, 2009 Special Meeting—Public Hearing/General Meeting

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Several minor typographical corrections were discussed and agreed to by the Commission. The following motion was made: That the Commission adopt the minutes as corrected. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Any Other Business (requires two-thirds vote of Commission)

The following motion was made: That the Commission receive a brief update on the status of the application for lights at the High School. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved. Mr. Ginsberg informed the Commission that the attorney for the neighbors and the attorney for the Board of Education have met and will meet again in an effort to resolve any outstanding concerns. The public hearing for this matter will be continued on October 6th.

At about 8:35 p.m., Chairman Conze then read the first public hearing agenda item:

PUBLIC HEARING

Special Permit Application #125-C, Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road. Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays. The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, and Holahan Field is behind Town Hall. The property is shown on Assessor's Map #41 as Lot #85, in the R-1/3 Zone.

Guy Wisinski of 35 Scofield Farm Road represented the Darien Junior Football League (DJFL) and explained that this is a separate application from the proposed temporary lights at the High School field proposed by the Darien Board of Education. This proposal is to establish temporary light fixtures at Holahan Field which is located adjacent to the Darien Town Hall. He explained that the Darien Junior Football League uses this facility for practices on weekdays in the fall, and the proposed temporary lights would allow the players to conduct practices during the early evening hours. He said that representatives of DJFL met with the neighbors and with the Parks & Recreation Commission. He said that the DJFL has grown from 300 participants three years ago to 550 participants at this time. Mr. Wisinski said that with the concurrence of the Parks & Recreation Commission, DJFL conducted a demonstration on August 9, 2009 from 8:15 to 9:15 p.m. (when it was dark) at Holahan Field. They worked with the neighbors regarding the positioning and orientation of the lights to minimize glare problems. He said after that demonstration, they received permission from the Park & Recreation Commission to make a formal application to the Planning & Zoning Commission. The purpose of the temporary lights is to provide a safe, effective practice lighting in October and possibly early November so that practice can continue at comparable times and under comparable light conditions that are experienced when practice is conducted in September.

Mr. Wisinski said that the temporary lights are currently powered by individual generators at each light grouping and would operate Monday through Friday from 5:30 p.m. until 7:15 p.m. They would operate from Monday, October 19th only on weekdays until no later than November 16th. If the DJFL teams are not in the playoffs, the lights will not be needed that late in November. Each light grouping would be a maximum of 20 feet in height and will be pointed away from the neighboring houses. He

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said the practice is concluded at 7:00 p.m. and the lights will be turned off at 7:15 p.m. He said that this is a pilot program that is being requested for four weeks in 2009. This is not a request for permanent light fixtures to be located at Holahan field. He added that use of the field until 7:00 p.m. is already conducted and it is not unusual for parents to turn on their car headlights and aim them at the practice field to minimize the risk of injuries to the players. He noted that the league rules allow each team to practice only 6 hours per week. He explained that the safe lighting facilities would allow practice with reduced risk of injuries to the players. The lights would be operated only by the DJFL officers and coaches who will be responsible for compliance with respect to location, orientation and time of usage. He said that the demonstration conducted on August 9th included just three lights used for one hour. He presented a graphic showing where the proposed four light fixtures would be placed. He submitted information indicating that the generator noise level would be 69.6 decibels 23 feet away from the generator. He mentioned that a person-to-person conversation is generally at 60 decibels and the interior of a jet plane is generally at 70 decibels. Lawn mowers are generally at 74 to 82 decibels and a leaf blower is at 89 decibels. A chain saw creates noise at approximately a 110 decibel level.

John Sini of the DJFL said that the proposed plan complies with the Darien Town Plan of Conservation & Development which specifically notes the lighting of recreation facilities to make more efficient use of the fields. He said that the Park & Recreation section of the Town Plan discusses making more efficient use of the limited recreation facilities and the appendix refers to lighting key locations. Mr. Sini said that Section 405b of the Zoning Regulations allows for Special Permit use for outdoor lighted recreation facilities provided there is no hazardous or nuisance condition created and that the light sources are concealed and that they are directed away from the neighboring residences and that there is a 20 foot maximum height limitation. He noted that the proposed temporary lights comply with all of these provisions. He then referred to Section 1005 that discusses standards for approval of a Special Permit. He noted that the lights are only temporary for a four week period and only for an hour and forty-five minutes each weekday. The lights will be for practice use only and not for games. The lights will not intensify the use of the facility or increase risks to safety or create hazardous conditions. He said that there is no structural conversion involved in this because these are temporary lights only and it will have no impact on the values or use of the neighboring properties.

Guy Wisinski said that paddle tennis court lights are already in use at various Country Clubs within the community. He said at the Woodway Country Club, each court has 6 or 8 lights facing into the court. Each light is 1,400 or 1,500 watts, but some of the more energy efficient lights only use 400 watts to create a comparable amount of light. He said at the Ox Ridge Hunt Club there are four courts with a total of 17 lights, and at the Country Club of Darien there are four courts with 24 lights. He said some of the courts are in use from September until March and are often in use until 10:00 p.m.

Mr. Wisinski said that the exhaust from the generators providing electricity is not a noticeable odor problem or nuisance; however, they do hope in the future to be able to make a direct electrical connection and avoid the need for the generators. He noted that the Town Plan does consider and allow for lighting of key recreational facilities and that the proposed temporary lights meet the criteria of Section 405 and Section 1005 of the Zoning Regulations and there have been precedents set at other locations for the lighting of recreational facilities. Mr. Sini said that in early September, practice time might extend until 7:30 p.m. if the natural light is sufficient. During the month, the decrease in daylight hours means that practice must be concluded at 7:00 p.m. and then at 6:00 p.m. by late October. This is a problem because all of the coaches in DJFL are volunteers and the practices cannot be

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conducted immediately after school because the coaches and many of the players are not available at that time.

Guy Wisinski said that the DJFL uses the Royle School facilities, the Holmes School facility, the High School field, even the High School gym for practices. He said that last year he had his team practice at the beach parking lot which was lit. He explained that the use of these temporary lights at the Holahan field facility would be only on a four week trial basis during 2009. A detailed evaluation can then be conducted and submitted before any consideration is made about whether to have lights at the field in the future. Mr. Sini said that before they come back to the Planning & Zoning Commission for any future requests, they would need to obtain approval from the Parks & Recreation Commission.

Mr. Spain suggested that they do testing and a detailed report similar to the report conducted last year at the Darien High School when they had lights for practices in October and early November. Even if the application is approved this year using generators, next year it would be problematic to have generators. The DJFL should further investigate the possible direct connection to other electrical sources. Mr. Wisinski said that they would much prefer to have the light fixtures plugged in rather than generators, but on this temporary basis they propose to use the generators. Mr. Sini said that the Parks & Recreation Commission did discuss the situation after the August 9th demonstration and last week officially did authorize DJFL to submit the application to the Planning & Zoning Commission. The use of the lights would start no earlier than October 19th and would be used no later than November 16th. Mr. Wisinski said the practices cannot start until 5:00 p.m. due to the lack of coaches and players and that the practices would be over by 7:00 and the lights would be turned off by 7:15.

Mr. Conze said that the DJFL temporary lights each have four light bulbs and each light bulb is 1,000 watts. He asked how this compared to the lighting of the paddle tennis court. Jim Reilly said that typical paddle tennis courts are designed with six light bulbs and each light bulb is approximately 1,500 watts. This translates to approximately 9,000 watts of energy being used to illuminate each court. He said that the old iodine light fixtures would use roughly 1,500 watts of power. The newer metal halide light fixtures use only 400 watts for comparable amount of light. He noted that the walls of the paddle tennis court are 12 feet tall and play is allowed off the walls and therefore the lights must be angled up to illuminate both the playing surface and the side and end walls.

Mr. Wisinski mentioned that even though there would be temporary lights, there would be no public address system, no megaphone or any other amplification of noise created at the practice. There would be the normal whistles and noise created at a typical practice. He said that if required, they could roll the lights off the field on Friday night or Saturday morning before the games that are played during the day on the weekends at Holahan field. He said that if flooding is expected due to the heavy storm, the Executive Committee of the DJFL would be responsible for the rapid movement and removal of the temporary light fixtures. He added that the control and fuel fill areas of the generators can be padlocked so that they cannot be tampered with.

Erin O'Toole of 20 Fitch Avenue said that the demonstration was very noisy and smelly and that the light was placed too close to the neighboring properties. It was noted that landscaping and screening of the lights is an important aspect and there will be no leaves on the trees when the temporary lights are in use in October and November. It was asked why other playfields are not being considered for lights.

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Mr. Frank Albrizio of 1 St. John's Place said that he was concerned about noise and light spillage. He noted that there is no buffer in place, not even the 25 foot wide buffer he believed was required by the Regulations. He explained that the use of lights, even on a temporary basis, was not acceptable because they are too close to the neighbors. He said that the portable units could be easily moved and relocated to the wrong position. He also noted that St. John's Place was improperly used as a drop-off and pick-up area and that this is also unacceptable. He expressed concern about the 90 gallons of diesel fuel that would be subject to two or three feet of flood waters on the field in the event of a severe storm. He said that the Commission should not approve this request because it would negatively impact property values in the area.

Steve Yurman of 29 Cherry Street explained that during the demonstration in August, he could smell the fumes and hear the noise of the generator and that the DJFL should investigate using direct electrical power from Cherry Street or St. John's Place or the Town Hall rather than using the generators. He also said that 5:30 to 7:30 p.m. is prime time for homeowners to enjoy their own property in peace and quiet. He said that there is a safety concern with having 550 kids at the site and noted that some will or do get dropped off on Cherry Street and then go through the private properties to get to the play field.

Jay Hardison, a member of the DJFL Board of Directors, said that he lives at 11 Nearwater Lane which is very close to the Hindley School. He said there are many activities that happen at the public facility and it is something that he and the neighbors expect. He said the vast majority of the community want to have lights at the High School and at other recreation facilities and that only a vocal minority in the immediate neighborhood are opposed to the lights. He noted that these are only temporary light facilities to be used for a few hours each weekday and for a limited time during the year.

Tom Mercein of Sunswyck Road said that he lives near the paddle tennis court that gets lit up and understands the neighbors' concerns. He said the main concern of the Darien Junior Football League is the safety of the kids that are practicing. He said that the kids are at a competitive disadvantage compared to teams in other communities that have lighted practice fields. He said the most the lights would be in use for four weeks and that the Board of Directors of Darien Junior Football League will work with the neighbors and resolve any concerns or problems that they have.

Nancy Albrizio claimed that the flyer in the mailbox was the first notice that she had received. She is concerned about the conditions or limitations regarding the use of the lights and about the strict enforcement of those limitations.

Kent Eppley explained that he owns the property at 17 Cherry Street and rents the property. He said he bought it specifically because of its proximity to the play field and he fully supports the installation and use of the lights. He said that the field should be used in the autumn, but no later than it would normally be in used during the summer months. He added that if it helps, he will allow them to use his power in order to eliminate the generators. He noted that he has dealt with the power company before and he understands that the DJFL might have some time delays in trying to make a direct connection from the power pole.

The President of the DJFL, Dick Albu, said that the League aspires to do what is best for the kids that participate. He said that the coaches are all volunteers and cannot leave their jobs early to have

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practice each weekday. He said the safety of the participants is critical and this forces them to end practices earlier as the sun sets earlier.

Mr. Tony Tarantino of 24 Fitch Avenue said he agrees with the concept of lighting the fields for practice, but perhaps a field in a less populated area would be better. He suggested installing the lights at the Renshaw Road athletic fields or at the Royle School.

Guy Wisinski explained that they have explored many various alternatives for the installation of temporary practice lights. They have worked with the Parks & Recreation Commission and will continue to seek additional safety lighting where appropriate. He said they have applied to use the High School field lights after the High School team has finished their practices. He said that the Holohan Field adjacent to the Town Hall is the main field used by the Darien Junior Football League. He said that Darien Junior Football League is not applying for the lights to be used at any time other than the four weeks from mid-October through mid-November. They would only be for weekday practices. The lights would not be for baseball or any other sport or activity. He said that the representatives of the DJFL would work with the neighbors to facilitate the best placement of the lights so that potential glare problems are avoided.

Mr. Spain asked if it was possible to control the drop-off and pick-up areas to avoid St. John's Place or Cherry Street from being misused for those purposes. Mr. Wisinski responded that they are working on that. He said that the only authorized location for drop-off or pick-up is in the parking lot between the Town Hall and the practice field.

There being no other comments, the following motion was made: That the Commission close the public hearing regarding this application. The motion was made by Mr. Spain, seconded by Mrs. Grimes and unanimously approved.

At about 10:15 p.m., Chairman Conze read the following agenda item:

Proposed Amendment to Zoning Regulations #5-2009, Affordable Housing Application under CGS 8-30g, Special Permit Application #256, Garden Homes, 397 Post Road apartments, 397 Boston Post Road. Proposing to modify the zoning regulations to allow conversion of certain buildings within the DB-2 zone as a Special Permit use; and application for a Special Permit to convert an existing office building at 397 Boston Post Road to 35 multi-family rental units; and perform related site development activities. The subject property is located on the northeast side of Boston Post Road approximately 475 feet southwest of its intersection with Birch Road, and is shown on Assessor's Map #14 as Lot #47, in the DB-2 Zone.

Attorney Tim Hollister of Shipman & Goodwin explained that notices had been sent to all neighboring property owners within 100 feet of the subject property. The site is a one acre piece of land in the Design Business Two (DB-2) Zone. There is a 17,000 square foot office building now located on the property. That building is in the process of being vacated by the tenants. He said that the site is immediately adjacent to the Boston Post Road, has access to public bus transportation, and the building is well screened from the road. The proposed use is to convert the office building into 35 dwelling units. Sixteen dwellings would be a studio unit that would average approximately 425 square foot each. Eighteen units would contain one bedroom and would average 465 square foot each. There would be one two-bedroom unit. In accordance with Section 8-30g of the Statutes, at least 30% of the units must

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be set aside as affordable housing units for 40 years. This requires that 11 units be set aside as affordable. Attorney Hollister explained that there would be no change in the building footprint or the building height. The building would be substantially renovated to be more energy efficient and to accommodate the proposed new use. The first part of the application is a proposal to amend the Regulations to allow for such conversions rather than to have a use or dimensional variances be necessary or to create a new zoning district. He explained that Section 624-i is proposed to accommodate the conversion of existing buildings to residential units. He said that this is not spot zoning because residential units are already allowed in this zone. The Regulations limit the potential applicability of this new provision to conversion situations only. Another change to the proposed Regulations would be to modify the required parking for each dwelling unit. This is to accommodate the fact that these units are smaller than the typical dwelling units that a developer would create.

Andrew Hennessey, project architect, explained that there is mature landscaping on the property. He noted that the building has three stories over a partial basement and has a flat roof with a mansard front façade. There is an elevator and there are two enclosed fire stairs. The plan is to remove many or most of the interior walls to reconfigure the spaces, and to replace all of the single pane windows with new, energy efficient windows. The large, steel front entry will be replaced to better suit the residential character that they would propose. Each of the 35 proposed units will have a full kitchen and a full bath. As required by Statutes, ten percent of the units will be handicapped accessible. There will be a common laundry room and storage areas in the basement. All of the walls will be well insulated and double-pane windows will be installed. An eco-white roof membrane system will be installed. Some units will have outdoor patios. A fire protection system, including full sprinkler and full fire alarms and emergency lighting will be installed. Energy efficient appliances will be installed in each unit.

Mr. Hennessey reviewed the floor plan of the proposed renovations. He noted that the main lobby will be in the middle floor. Exercise rooms, the laundry room and storage areas will be in the lower level. He said that they have reviewed the comments from the Fire Marshal and addressed those concerns. Mr. Hennessey said that the changes to the front façade will include replacement of the windows and changing the extra materials from white to a neutral tone.

Bruce Hillson, Traffic Consultant, noted that he had analyzed the parking needs for the 35 unit development. He said that the applicant controls other similar facilities where they have 51 units and 63 parking spaces; 32 units and 32 parking spaces; and 30 units and 41 parking spaces. This ranges from 0.77 to 1.18 parking spaces per unit. In this case, they propose 51 parking spaces to accommodate the 35 proposed units. The parking is provided on site, and Mr. Hillson believed that it will be adequate for the proposed use. He explained that the number of traffic trips generated in a day by the 35 units would be comparable to the office use that presently exists within the building but there would be a different time of day direction of the traffic flow in and out of the site. He said that he had reviewed the comments by F.P. Clark, the Town's traffic consultant, and had responded accordingly. He said that they have examined the sight line obstructions. There is no obstruction when exiting the site and viewing to the right, but there is a slight obstruction when viewing to the left. This can be remedied by trimming the shrubs and relocating signs. Then there would be a 600 foot sight line to the left. He said that he considers this sight line to be safe and adequate. He examined the traffic accident history in the area and believed that the change of use would not create any additional traffic safety hazards.

Attorney Tim Hollister reviewed the Affordability Plan and noted that it complies with Section 8-30g of the State Statutes and with the local Zoning Regulations. He said that the market rate units will rent for

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\$100 to \$200 more than the affordable units. Mr. Hollister explained that the proposed affordable housing units in this complex would create 25.5 additional points for the Town in the calculation toward achieving a moratorium under the Statutes. He said that the proposed development meets the comprehensive Town Plan of Conservation and Development and meets the Affordable Housing Plan adopted by the Town Board of Selectmen.

Mike Galante of F.P. Clark Associates explained that his firm is the Town's Traffic Consultant. He reviewed his letter of September 15, 2009. He said that the parking generation estimates appear to be reasonable. He said the Institute of Traffic Engineers (ITE) estimates 1.46 parking spaces needed at the peak overnight parking demand for a suburban situation like this. He said that they are proposing 1.46 parking spaces per unit and this will likely be enough to accommodate the reasonably expected demand. He did note, however, that there is no on-street parking for overflow parking. He said that the sight line access is reasonable and that the Institute of Traffic Engineers (ITE) typical trip generation calculations would indicate that there would be five fewer trips during the a.m. peak hour, but 12 additional trips during the afternoon peak hour. He said that this is not much of a difference considering the volume of traffic on the Boston Post Road.

Robert Buch, Fire Marshal for the Town of Darien, said that he had submitted a memorandum raising a number of concerns and issues. He said most of those issues have been addressed except for the turning and maneuvering of a fire truck within the existing parking lot. He added that any fire truck that enters the parking lot would most likely have to back out into the Boston Post Road.

John van der Kieft, Chairman of the Planning, Zoning and Housing Committee of the Representative Town Meeting, said that his committee supports the conversion of under utilized commercial properties into affordable housing. He read a brief statement aloud.

Attorney Wilder Gleason mentioned that he represented a client who owns property adjacent to the subject site. He expressed concern about the lighting of the patios, particularly on the rear portion of the building. He added that no exterior elevations had been provided of the sides and rear of the building. He also noted that the back-up distances and turning radiuses within the parking area do not comply with the current Regulations. He expressed concern that the handicapped parking space as shown did not comply with the Building Code requirements, and that new 10'x 20' handicapped parking spaces will be necessary to accommodate this change in use. This will probably result in the loss of two on-site parking spaces, thus there will be a parking problem. In this case, there is no safety valve or other location where residents or their guests could park except if they illegally park on his client's property.

Mr. Ginsberg then read aloud the comments from the Southwestern Regional Planning Agency (SWRPA) indicating that there are no changes with respect to abutting communities and no inter-municipal impact.

The Commission members agreed that it would be necessary to continue the public hearing. Mr. Spain noted that there is no recreational space being created for the residents. There is no place for children to play or for people to even walk dogs. He expressed concern about the need for "community" space, and asked how the provided space may compare to any industry standard. He asked about the loss of existing commercial office space. Mr. Hutchison asked Mr. Hollister to reach out to CL&P regarding the existing on-site transformer. Commission members then agreed to continue the public hearing on October 20, 2009 in the Darien Town Hall at 8:00 p.m.

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At about 11:00 p.m., Chairman Conze read the following agenda item:

Coastal Site Plan Review #243, Flood Damage Prevention Application #275, Land Filling & Regrading Application #230, Hay Island Trust, 157 Long Neck Point Road (aka Hay Island).

Proposing to raze the existing residence and construct a new single-family residence; renovate guest house; convert beach house into pool house; construct a swimming pool and deck; relocate/combine an existing driveway; install two new septic systems; install a stormwater management system; and perform related site development activities within regulated areas. The driveway for the subject property is located on the east side of Long Neck Point Road approximately 200 feet south of the southernmost intersection of Long Neck Point Road and Pear Tree Point Road, and is shown on Assessor's Map #59 as Lots #12 and #12-A, in the R-1 Zone.

Tom Ryder of Land-Tech Consultants represented the applicant, and he explained that this 20.8 acre parcel of land is accessed via Long Neck Point Road, but it is basically a peninsula that projects out into a portion of Long Island Sound. Access is achieved via a driveway through 159 Long Neck Point Road. There are wetlands on the site and they are considered tidal wetlands because they are below Elevation 7. There is presently a main house and a guest house and a cottage on the southeast portion of the property. The plan is to replace the existing main house with a new building and a new septic system. Other work includes remodeling the interior of the pool house and installing a new septic tank for that septic system. A new septic system must be installed for the guest house and a portion of the guest house will be removed. Mr. Ryder explained that they had considered the idea of extending the sewer line from Long Neck Point Road out to this property, but the distance is too great, and if the driveway is torn up, the potential for erosion of that driveway is too great.

Mr. Ryder explained that other site work that they propose includes modifying the driveway to the guest house and creating a loop driveway system. To accommodate the storm water runoff from the roof area, they will be creating an impoundment area to cleanse the water before it is discharged to Long Island Sound. They will also be improving the drainage from the driveway by creating a berm in the tidal wetlands to detain the runoff water.

Mr. Ryder mentioned that coastal resources on the property will not be negatively impacted. Instead, they will be reducing the amount of impervious surface by approximately 8,000 square feet, they will be replacing the existing structure that is below the flood level with a new structure that is above the expected flood level, and they are not doing any work within the coastal waters.

A question was asked about the possibility of removing oil tanks. Mac Patterson, Project Architect, replied that no buried oil tanks have been found on the site but, if any are, they will be properly removed and discarded. There are two tanks in the basement of one of the buildings and they will be replaced with new tanks that will be strapped down in accordance with Flood Damage Prevention Regulations.

Director of Planning, Jeremy Ginsberg, read aloud the comments from the Connecticut Department of Environmental Protection (DEP). The DEP indicates that they had no comment at this time.

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There were no comments from the public regarding the application. The following motion was made: That the Commission close the public hearing regarding this application. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

There being no further business, the meeting was adjourned at 11:13 p.m.

Respectfully submitted,

David Keating
Assistant Planning & Zoning Director

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